

Message Text

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INFO OCT-01 AF-06 EUR-12 NEA-10 ISO-00 EB-07 FRB-03 TRSE-00

OMB-01 FTC-01 COME-00 H-02 CIAE-00 INR-07 NSAE-00

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SP-02 SS-15 NSC-05 /077 R

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TO AMEMBASSY ABU DHABI IMMEDIATE

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AMEMBASSY KUWAIT IMMEDIATE

AMEMBASSY MANAMA IMMEDIATE

AMEMBASSY MOGADISCIO IMMEDIATE

AMEMBASSY MUSCAT IMMEDIATE

AMEMBASSY NOUAKCHOTT IMMEDIATE

AMEMBASSY RABAT IMMEDIATE

AMEMBASSY SANA IMMEDIATE

AMEMBASSY TRIPOLI IMMEDIATE

AMEMBASSY TUNIS IMMEDIATE

INFO AMEMBASSY LONDON IMMEDIATE

AMEMBASSY TEL AVIV IMMEDIATE

AMEMBASSY PARIS IMMEDIATE

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E.O. 11652: N/A

TAGS: ETRD, EFIN, PFOR

SUBJECT: FEDERAL RESERVE BOARD ACTS AGAINST ARAB BOYCOTT

AMMAN FOR ATHERTON; PARIS FOR SOBER

1. ON DECEMBER 17, DEPT RECEIVED COPY OF DECEMBER 16 PRESS RELEASE OF BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM AND OF LETTER DATED DECEMBER 12 TO ALL MEMBERS OF MEMBER-BANKS OF FEDERAL RESERVE SYSTEM.

2. TEXT OF PRESS RELEASE FOLLOWS:

THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM TODAY URGED MEMBER COMMERCIAL BANKS TO AVOID INVOLVEMENT IN RESTRICTIVE FOREIGN TRADE PRACTICES THAT DISCRIMINATE AGAINST U.S. CITIZENS OR THAT ACCOMMODATE BOYCOTTS AGAINST FRIENDLY FOREIGN NATIONS.

BOARD CHAIRMAN ARTHUR F. BURNS STATED THAT THE BOARD'S ANNOUNCEMENT FOLLOWED A PRESIDENTIAL REQUEST FOR A COMPREHENSIVE RESPONSE ON THE PART OF THE FEDERAL GOVERNMENT TO ANY DISCRIMINATION AGAINST AMERICAN CITIZENS OR FIRMS THAT MIGHT ARISE FROM FOREIGN BOYCOTT PRACTICES. BURNS URGED ALL MEMBER BANKS TO ABIDE BY BOTH THE LETTER AND THE SPIRIT OF THE POLICY SET FORTH TODAY.

THE BOARD'S POLICY WAS SPELLED OUT IN A LETTER SENT TO THE 12 FEDERAL RESERVE BANKS FOR TRANSMITTAL TO APPROXIMATELY 5,800 COMMERCIAL BANKS THAT ARE MEMBERS OF THE FEDERAL RESERVE SYSTEM.

IN VOICING STRONG SUPPORT OF THE PRESIDENT'S RECENT STATEMENT AGAINST THE INVOLVEMENT OF U.S. FIRMS IN FOREIGN BOYCOTTS THE BOARD SAID:
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"THE PARTICIPATION OF A U.S. BANK, EVEN PASSIVELY, IN EFFORTS BY FOREIGN NATIONALS TO EFFECT BOYCOTTS AGAINST OTHER FOREIGN COUNTRIES FRIENDLY TO THE UNITED STATES-- PARTICULARLY WHERE SUCH BOYCOTT EFFORTS MAY CAUSE DISCRIMINATION AGAINST UNITED STATES CITIZENS OR BUSINESSES -- IS, IN THE BOARD'S VIEW, A MISUSE OF THE PRIVILEGES AND BENEFITS CONFERRED UPON BANKING INSTITUTIONS."

ONE SPECIFIC ABUSE, THE BOARD SAID, IS THE PRACTICE OF SOME U.S. BANKS OF PARTICIPATING IN THE ISSUANCE OF LETTERS OF CREDIT CONTAINING PROVISIONS INTENDED TO FURTHER A BOYCOTT AGAINST A FOREIGN COUNTRY FRIENDLY TO THE UNITED STATES.

ONE SUCH PROVISION IS A REQUIREMENT THAT THE EXPORTER PROVIDE A CERTIFICATE ATTESTING THAT THE FIRM IS NOT CONNECTED IN ANY WAY WITH A COUNTRY OR FIRM BEING BOYCOTTED BY THE IMPORTER'S HOME COUNTRY. THE BOARD NOTED THAT SUCH CONDITIONS GO BEYOND NORMAL COMMERCIAL PROTECTIONS, AND MAY HAVE A DISCRIMINATORY IMPACT UPON U.S. CITIZENS OR FIRMS THAT ARE NOT THEMSELVES THE OBJECT OF THE BOYCOTT.

ALTHOUGH ARRANGEMENTS OF THIS TYPE ORIGINATE WITH THE FOREIGN IMPORTER WHO ARRANGES A LETTER OF CREDIT, THE BOARD SAID U.S. BANKS THAT AGREE TO HONOR SUCH CONDITIONS MAY BE VIEWED AS PARTICIPANTS IN A BOYCOTT THAT CONTRAVENES U.S. POLICY AS ANNOUNCED BY THE PRESIDENT AND AS SET FORTH IN THE EXPORT ADMINISTRATION ACT.

THE BOARD ALSO STATED IN ITS LETTER THAT AN AGREEMENT BY A U.S. BANK TO OBSERVE SUCH DISCRIMINATING CONDITIONS IN A LETTER OF CREDIT MAY CONSTITUTE A DIRECT VIOLATION OF THE FEDERAL ANTITRUST LAWS OR OF APPLICABLE STATE ANTI-BOYCOTT LAWS.

A COPY OF THE BOARD'S LETTER IN THIS MATTER IS ATTACHED.
END QUOTE.

3. EXCERPTS OF LETTER DATED DECEMBER 12 FOLLOW:
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"ON NOVEMBER 20, 1975, THE PRESIDENT ANNOUNCED A NUMBER OF ACTIONS INTENDED TO PROVIDE A COMPREHENSIVE RESPONSE ON THE PART OF THE FEDERAL GOVERNMENT TO ANY DISCRIMINATION AGAINST AMERICAN CITIZENS OR FIRMS THAT MIGHT ARISE FROM FOREIGN BOYCOTT PRACTICES...."

"...THE PRESIDENT HAS ENCOURAGED THE BOARD OF GOVERNORS AND THE OTHER FEDERAL FINANCIAL REGULATORY AGENCIES TO ISSUE STATEMENTS TO FINANCIAL INSTITUTIONS WITHIN THEIR RESPECTIVE JURISDICTIONS EMPHASIZING THAT DISCRIMINATORY BANKING PRACTICES OR POLICIES BASED UPON RACE OR RELIGIOUS BELIEF OF ANY CUSTOMER, STOCKHOLDER, EMPLOYEE, OFFICER OR DIRECTOR ARE INCOMPATIBLE WITH THE PUBLIC SERVICE FUNCTION OF BANKING INSTITUTIONS IN THIS COUNTRY."

"THE BOARD OF GOVERNORS STRONGLY SUPPORTS THE PRESIDENT'S STATEMENT IN THIS REGARD. BANKING IS CLEARLY A BUSINESS AFFECTED WITH A PUBLIC INTEREST. BANKING INSTITUTIONS OPERATE UNDER PUBLIC FRANCHISES, THEY ENJOY A MEASURE OF GOVERNMENTAL PROTECTION FROM COMPETITION, AND THEY ARE THE RECIPIENTS OF IMPORTANT GOVERNMENT BENEFITS. THE PARTICIPATION OF A U.S. BANK, EVEN PASSIVELY, IN EFFORTS BY FOREIGN NATIONALS TO EFFECT BOYCOTTS AGAINST OTHER FOREIGN COUNTRIES FRIENDLY TO THE UNITED STATES -- PARTICULARLY WHERE SUCH BOYCOTT EFFORTS MAY CAUSE DISCRIMINATION AGAINST UNITED STATES CITIZENS OR BUSINESSES -- IS, IN THE BOARD'S VIEW, A MISUSE OF THE PRIVILEGES AND BENEFITS CONFERRED UPON BANKING INSTITUTIONS."

"ONE SPECIFIC ABUSE THAT HAS BEEN CALLED TO THE ATTENTION OF THE BOARD OF GOVERNORS IS THE PRACTICE OF CERTAIN U.S. BANKS OF PARTICIPATING IN THE ISSUANCE OF LETTERS OF CREDIT CONTAINING PROVISIONS INTENDED TO FURTHER A BOYCOTT AGAINST A FOREIGN COUNTRY FRIENDLY TO THE U.S. THE PRACTICE APPEARS TO HAVE ARISEN IN COMMERCIAL TRANSACTIONS BETWEEN U.S. EXPORTERS AND FOREIGN IMPORTERS, IN WHICH THE IMPORTER HAS ARRANGED FOR THE ISSUANCE OF A BANK LETTER OF CREDIT AS A MEANS OF MAKING PAYMENT TO THE EXPORTER FOR THE GOODS HE HAS SHIPPED. IN SOME CASES THE IMPORTER HAS REQUIRED, AS ONE OF THE CONDITIONS THAT LIMITED OFFICIAL USE

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MUST BE SATISFIED BEFORE PAYMENT CAN BE MADE BY THE U.S. BANK TO THE EXPORTER, THAT THE EXPORTER PROVIDE A CERTIFICATE ATTESTING THAT IT IS NOT CONNECTED IN ANY WAY WITH A COUNTRY OR FIRM BEING BOYCOTTED BY THE IMPORTER'S HOME COUNTRY, OR IS OTHERWISE IN COMPLIANCE WITH THE TERMS OF SUCH A BOYCOTT. SUCH PROVISIONS GO WELL

BEYOND THE NORMAL COMMERCIAL CONDITIONS OF LETTERS OF CREDIT, AND CANNOT BE JUSTIFIED AS A MEANS OF PROTECTING THE EXPORTED GOODS FROM SEIZURE BY A BELLIGERENT COUNTRY. MOREOVER, BY CREATING A DISCRIMINATORY IMPACT UPON U.S. CITIZENS OR FIRMS WHO ARE NOT THEMSELVES THE OBJECT OF THE BOYCOTT SUCH PROVISIONS MAY BE HIGHLY OBJECTIONABLE AS A 'SECONDARY' BOYCOTT."

"WHILE SUCH DISCRIMINATORY CONDITIONS ORIGINATE WITH AND ARE IMPOSED AT THE DIRECTION OF THE FOREIGN IMPORTER WHO ARRANGES FOR THE LETTER OF CREDIT, U.S. BANKS THAT AGREE TO HONOR SUCH CONDITIONS MAY BE VIEWED AS GIVING EFFECT TO, AND THEREBY BECOMING PARTICIPANTS IN, THE BOYCOTT. THE BOARD BELIEVES THAT EVEN THIS LIMITED PARTICIPATION BY U.S. BANKS IN A BOYCOTT CONTRAVENES THE POLICY OF

THE UNITED STATES, AS ANNOUNCED BY THE PRESIDENT AND
AS SET FORTH BY CONGRESS...IN THE EXPORT ADMINISTRATION
ACT OF 1969..."

"YOU ARE REQUESTED TO INFORM MEMBER BANKS IN YOUR DISTRICT
OF THE BOARD'S VIEWS ON THIS MATTER, AND, IN PARTICULAR,
TO ENCOURAGE THEM TO REFUSE PARTICIPATION IN LETTERS
OF CREDIT THAT EMBODY CONDITIONS THE ENFORCEMENT OF WHICH
MAY GIVE EFFECT TO A BOYCOTT AGAINST A FRIENDLY FOREIGN
NATION OR MAY CAUSE DISCRIMINATION AGAINST U.S. CITIZENS
OR FIRMS."

4. COMMENTS FOLLOWING BY SEPTTEL. INGERSOLL

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Disposition Approved on Date:
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